

The House Committee on Intragovernmental Coordination - Local Legislation offers the following substitute to SB 7:

**A BILL TO BE ENTITLED  
AN ACT**

1 To amend an Act revising, superseding, and consolidating the laws relating to the governing  
2 authority of DeKalb County and creating a chairman and board of commissioners of said  
3 county, approved March 8, 1956 (Ga. L. 1956, p. 3237), as amended, particularly by an Act  
4 approved April 9, 1981 (Ga. L. 1981, p. 4304), an Act approved March 20, 1990  
5 (Ga. L. 1990, p. 3900), an Act approved April 13, 1992 (Ga. L. 1992, p. 6137), and an Act  
6 approved May 12, 2015 (Ga. L. 2015, p. 3811), so as to change a definition regarding the  
7 Board of Ethics of DeKalb County to exclude certain employees and persons; to provide for  
8 reporting of violations by county employees; to change the manner of appointment and terms  
9 of office of the members of the board; to provide for filling of vacancies on the board; to  
10 provide for an ethics administrator; to authorize employment of legal counsel; to provide for  
11 recusal of members of the board; to provide for preliminary investigations by the board and  
12 penalties for violations regarding board inquiries; to provide for related matters; to provide  
13 for a referendum; to provide for contingent effective dates and automatic repeal; to repeal  
14 conflicting laws; and for other purposes.

15 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

16 **SECTION 1.**

17 An Act revising, superseding, and consolidating the laws relating to the governing authority  
18 of DeKalb County and creating a chairman and board of commissioners of said county,  
19 approved March 8, 1956 (Ga. L. 1956, p. 3237), as amended, particularly by an Act approved  
20 April 9, 1981 (Ga. L. 1981, p. 4304), an Act approved March 20, 1990 (Ga. L. 1990,  
21 p. 3900), an Act approved April 13, 1992 (Ga. L. 1992, p. 6137), and an Act approved  
22 May 12, 2015 (Ga. L. 2015, p. 3811), is amended by revising paragraph (8) of subsection (b)  
23 of Section 22A as follows:

24 "(8) 'Official or employee' means any person elected or appointed to or employed or  
25 retained by DeKalb County or any agency, whether paid or unpaid and whether part time  
26 or full time. This definition includes retired employees or former county employees

27 during the period of time in which they are later employed or retained by the county or  
28 any agency, but does not otherwise include retired employees or former county  
29 employees or persons elected or appointed to or retained by DeKalb County or any  
30 agency. This definition does not include superior and state court judges and their  
31 immediate staffs, the district attorney, the solicitor of the state court, the clerks of the  
32 superior and state courts, the magistrates, the sheriff, the judge of the juvenile court, the  
33 judge of the probate court, the tax commissioner, and their respective staffs."

## SECTION 2.

35 Said Act is further amended by revising subsection (d) of Section 22A as follows:

36        "(d) Disclosure of interests. An official or employee who has an interest that he or she has  
37 reason to believe may be affected by his or her official acts or actions or by the official acts  
38 or actions of another official or employee of DeKalb County shall disclose the precise  
39 nature and value of such interest by sworn written statement to the Board of Ethics and ask  
40 for the board's opinion as to the property of such interest. Every official or employee who  
41 knowingly has any interest, direct or indirect, in any contract to which DeKalb County is  
42 or is about to become a party, or in any other business with DeKalb County, shall make full  
43 disclosure of such interest to the Chief Executive and the Commission and to the ethics  
44 administrator and the Board of Ethics. The information disclosed by such sworn  
45 statements, except for the valuation attributed to the disclosed interest, shall be made a  
46 matter of public record by the Board of Ethics."

### SECTION 3.

48 Said Act is further amended by revising subsection (f) of Section 22A as follows:

49        "(f) Reporting violations.

50 (1) Except as otherwise provided in paragraph (2) of this subsection, any person who  
51 witnesses or becomes aware of a violation of this section may complain of the violation  
52 as follows:

53 (A) A complaint may be communicated anonymously to the ethics administrator. Such  
54 complaint shall be made in good faith and with veracity and sufficient specificity so as  
55 to provide the ethics administrator with salient and investigable facts. The ethics  
56 administrator may require the anonymous complaint to be made in a manner and form  
57 that is intended only to obtain relevant facts related to the alleged violation of this  
58 section and that is not designed to reveal the identity of the complainant;

59 (B) A sworn written complaint may be filed with the ethics administrator of the Board  
60 of Ethics, as described in this paragraph. All written complaints to be considered by

61 the Board of Ethics and the ethics administrator shall contain the following, if  
62 applicable:

- 63 (i) The name and address of the person or persons filing the complaint;
- 64 (ii) The sworn verification and signature of the complainant;
- 65 (iii) The name and address of the party or parties against whom the complaint is filed  
66 and, if such party is a candidate, the office being sought;
- 67 (iv) A clear and concise statement of acts upon which the complaint is based along  
68 with an allegation that such facts constitute one or more violations of law under the  
69 jurisdiction of the Board of Ethics;
- 70 (v) A general reference to the allegedly violated statutory provision(s) of the code of  
71 ethics within the jurisdiction of the Board of Ethics; and
- 72 (vi) Any further information which might support the allegations in the complaint  
73 including, but not limited to, the following:

74 (I) The names and addresses of all other persons who have first-hand knowledge  
75 of the facts alleged in the complaint; and

76 (II) Any documentary evidence that supports the facts alleged in the complaint;

77 (C) Upon receipt of a complaint, whether by the ethics administrator or by the Board  
78 of Ethics, the ethics administrator or the secretary of the Board of Ethics shall send a  
79 written notice to the subject of the complaint by the next business day. Both this notice  
80 and any subsequent documents shall be subject to Article 4 of Chapter 18 of Title 50  
81 of the O.C.G.A; or

82 (D) Upon receipt of a written, nonanonymous complaint which does not conform to  
83 the applicable requirements of subparagraph (B) of this subsection, the ethics  
84 administrator shall by letter acknowledge receipt of the complaint and advise the  
85 complainant of the defect in the complaint and that the complaint will not be considered  
86 by the Board of Ethics unless the defect is corrected.

87 (2) A county employee, prior to communicating to the ethics administrator a complaint  
88 regarding his or her immediate supervisor, shall exhaust all administrative remedies  
89 available under the county's applicable human resources policies and procedures. It shall  
90 be the duty of the ethics administrator to confirm with the county human resources and  
91 merit system director all county employees' compliance with this paragraph."

## 92 SECTION 4.

93 Said Act is further amended in paragraphs (2) through (4) of subsection (h) of Section 22A  
94 as follows:

95 "(2)(A) The members of the Board of Ethics in office on the effective date of this  
96 section shall serve until December 31, 2019, and then their terms shall terminate. A

97 new board shall be appointed as provided in this paragraph to take office on  
98 January 1, 2020, and to serve for the terms prescribed in this paragraph.

99 (B) Not later than December 31, 2019, the members of the new Board of Ethics shall  
100 be selected as follows:

101 (i) Two members shall be appointed by majority vote of the DeKalb County  
102 legislative delegation in the House of Representatives of the Georgia General  
103 Assembly, which legislative delegation shall be composed of all Representatives in  
104 the Georgia General Assembly whose districts are wholly or partially located in  
105 DeKalb County;

106 (ii) Two members shall be appointed by majority vote of the DeKalb County  
107 legislative delegation in the Senate of the Georgia General Assembly, which  
108 legislative delegation shall be composed of all Senators in the Georgia General  
109 Assembly whose districts are wholly or partially located in DeKalb County;

110 (iii) One member shall be appointed by nomination by the Chief Executive,  
111 confirmed by a majority vote of the Commission;

112 (iv) One member shall be appointed by the judge of the Probate Court of DeKalb  
113 County;

114 (v) One member shall be appointed by the chief judge of the Superior Court of  
115 DeKalb County;

116 (vi) Two alternate members shall be appointed by majority vote of the DeKalb  
117 County legislative delegation in the House of Representatives; and

118 (vii) Two alternate members shall be appointed by majority vote of the DeKalb  
119 County legislative delegation in the Senate.

120 (C) The members shall each serve for terms of two years; provided, however, that the  
121 initial terms of the first appointees of the chief judge of the Superior Court of DeKalb  
122 County and the judge of the Probate Court of DeKalb County shall each be one year.

123 (D) Successors to all members of the Board of Ethics and future successors shall be  
124 appointed by the respective appointing authorities not less than 30 days prior to the  
125 expiration of each such member's term of office, and such successors shall take office  
126 on January 1 following such appointment and shall serve terms of two years and until  
127 their respective successors are appointed and qualified. No individual may be  
128 appointed to more than two consecutive terms.

129 (E) All appointments to the Board of Ethics shall be made by the respective appointing  
130 entities no later than March 31 of each year. In the event that any appointment is not  
131 made within 30 days, the chief judge of the Superior Court of DeKalb County shall be  
132 authorized to fill any resulting vacant positions on the Board of Ethics.

133 (F) The board shall adopt policies and procedures subject to review by the Chief  
134 Executive and confirmation by a majority vote of the Commission, which vote shall  
135 occur within 30 days of submission of such policies and procedures to the Chief  
136 Executive. Should said vote not occur within said time, such policies and procedures  
137 shall be of full force and effect without confirmation by the Commission.

138 (3) If a member of the Board of Ethics ceases to be a resident of DeKalb County, that  
139 member's position on the Board of Ethics, by operation of law, shall become vacant upon  
140 the establishment of the fact of such nonresidency, if contested, by a court of competent  
141 jurisdiction. A vacancy in the Board of Ethics shall exist by reason of death, the  
142 disability or incapacity of a member for more than 90 days, resignation, or loss of  
143 residency as described in this paragraph. A member of the Board of Ethics may be  
144 removed from office during a term if the member becomes ineligible to hold civil office  
145 within the meaning of Code Section 45-2-1 of the O.C.G.A. and that ineligibility is  
146 established by decision of a court of competent jurisdiction which declares the office  
147 vacant because of such ineligibility or for good cause by a majority vote of the Board of  
148 Ethics. The ethics administrator shall notify the appointing authority of a vacancy upon  
149 its occurrence, and such vacancy shall be filled for the unexpired term by the respective  
150 appointing authority.

151 (4) The members of the Board of Ethics shall serve without compensation and shall elect  
152 from their own membership a chairperson and otherwise provide for their own internal  
153 organization. The Commission shall provide adequate office and meeting space and pay  
154 all administrative costs, including those specifically stipulated in this section, pertaining  
155 to the operation of the Board of Ethics. The Board of Ethics shall be authorized to  
156 employ its own staff and clerical personnel and contract for the services of a competent  
157 court reporter, an attorney, and a private investigator as it deems necessary. In the event  
158 that the Board of Ethics determines that employment of full-time legal counsel would  
159 best facilitate the accomplishment of its purposes under this section, the Board of Ethics  
160 may employ an attorney for such purpose, and the Commission shall appropriate  
161 reasonably sufficient funds for such position. The members of the Board of Ethics shall  
162 have the authority to propose the budget of the board and shall recommend the budget to  
163 the Commission, who shall fund it as a priority. In the event that the proposed budget is  
164 in excess of \$300,000.00, the Commission shall have the authority to authorize the  
165 additional funds requested in accordance with standard budgetary procedures and  
166 requirements. The Board of Ethics shall be completely independent and shall not be  
167 subject to control or supervision by the Chief Executive, the Commission, or any other  
168 official or employee or agency of the county government."

169

**SECTION 5.**

170 Said Act is further amended by revising subsection (i) of Section 22A as follows:

171 "(i) Ethics administrator.

172 (1) There is hereby created as a full-time salaried position an ethics administrator for  
173 DeKalb County. The ethics administrator must possess a bachelor's degree. The ethics  
174 administrator shall be appointed by a majority of the members of the Board of Ethics for  
175 a period not to exceed six years. Removal of the ethics administrator before the  
176 expiration of the designated term shall be for cause by a majority vote of the members of  
177 the Board of Ethics.

178 (2) The ethics administrator shall not be involved in partisan or nonpartisan political  
179 activities and shall be available to give technical assistance as requested by the county  
180 governing authority or any member of the General Assembly whose district is wholly or  
181 partially located in DeKalb County.

182 (3) The duties of the ethics administrator shall include, but not be limited to, the  
183 following:

184 (A) Educating and training all county officials and employees to have an awareness  
185 and understanding of the mandate for and enforcement of ethical conduct and advising  
186 them of the provisions of the code of ethics of DeKalb County;

187 (B) Maintaining the records of the Board of Ethics as required by Article 4 of Chapter  
188 18 of Title 50 of the O.C.G.A. and providing an updated copy of such records to the  
189 clerk of the governing authority;

190 (C) Meeting with the Board of Ethics;

191 (D) Advising officials and employees regarding disclosure statements and reviewing  
192 the same to ensure full and complete financial reporting;

193 (E) Monitoring and evaluating information obtained from an 'ethics hotline' which shall  
194 be a city telephone number for the receipt of information about ethical violations. Each  
195 complaint, as of the time it is reported, whether by telephone or otherwise, shall be  
196 deemed to be a separate pending investigation of a complaint against a public  
197 administrator or employee as provided by Article 4 of Chapter 18 of Title 50 of the  
198 O.C.G.A.;

199 (F) Notifying the subject of a report of any alleged violation of the ethics code, whether  
200 the report is anonymous, made by an identified individual, or is written. Such notice  
201 shall be given in writing, by facsimile, or hand delivered to the subject of the complaint  
202 at the same time and in the same form that any disclosure of information is required as  
203 provided by Article 4 of Chapter 18 of Title 50 of the O.C.G.A.;

204 (G) Notifying the Board of Ethics of any report of an alleged violation of the ethics  
205 code; and

206 (H) Filing with the Board of Ethics, the Chief Executive, and the Commission on the  
207 first Tuesday of each February a written report describing the activities of the ethics  
208 administrator in carrying out the goals of his or her office and the code of ethics and  
209 reporting on the ethical health of DeKalb County."

210 **SECTION 6.**

211 Said Act is further amended by revising paragraphs (1) through (5) of subsection (j) of  
212 Section 22A and by adding a new paragraph to said section to read as follows:

213 "(j) Investigations and hearings. The Board of Ethics shall have the authority to conduct  
214 investigations into all alleged violations of the code of ethics, hold hearings, and issue  
215 decisions as prescribed in this subsection:

216 (1) The proceedings and records of the Board of Ethics shall be open unless otherwise  
217 permitted by state law;

218 (2) Upon request of the Board of Ethics, the Solicitor of DeKalb County or any attorney  
219 representing the office of the Solicitor of DeKalb County shall only advise the Board of  
220 Ethics;

221 (3) A complaint may be filed by any resident or group of residents of DeKalb County by  
222 submitting to the office of the ethics administrator a written, verified, and sworn  
223 complaint under the penalty of perjury or false swearing. The complaint shall specifically  
224 identify all provisions of the DeKalb County code of ethics which the subject of the  
225 complaint is alleged to have violated, set forth facts as would be admissible in evidence  
226 in a court proceeding, and show affirmatively that the complainant or affiant (if in  
227 addition to or different from the complainant) is competent to testify to the matter set  
228 forth therein. All documents referenced in the complaint as well as supporting affidavits  
229 shall be attached to the complaint;

230 (4) Upon receipt of the complaint, the ethics administrator shall provide the complaint  
231 to the Board of Ethics, which shall conduct a preliminary investigation to determine  
232 whether it meets the jurisdictional requirements as set forth in this section. The ethics  
233 administrator shall provide administrative and other support to the Board of Ethics  
234 regarding each such preliminary investigation. If in the opinion of the Board of Ethics  
235 the complaint fails to meet these requirements, the ethics administrator shall notify the  
236 person who filed the complaint, and he or she shall have ten days from the date of notice  
237 to correct and refile the complaint directly with the ethics administrator. A complaint  
238 which fails to satisfy the jurisdictional requirements as established by this section and by  
239 the rules and procedures established by the Board of Ethics shall be dismissed by the  
240 Board of Ethics no later than 30 days after the complaint is filed with the office of the  
241 ethics administrator, unless extended by a majority vote of the Board of Ethics; and

242 (5)(A) If the Board of Ethics determines no probable cause for belief that this section  
243 has been violated, the ethics administrator shall so notify the complainant and the  
244 subject of the investigation, and the complaint shall be dismissed. If the Board of  
245 Ethics determines that there is probable cause for belief that this section has been  
246 violated, the ethics administrator shall give notice to the person involved to attend a  
247 hearing to determine whether there has been a violation of this section.

248 (B) The provisions of Code Section 45-10-3 of the O.C.G.A. shall apply to members  
249 of the Board of Ethics, and a member shall recuse himself or herself from a hearing  
250 held pursuant to this subsection in the event that such member has a conflict of interest  
251 pursuant to such Code section."

252 "(8)(A) The Board of Ethics shall render no final decision regarding any matter  
253 involving any individual who has qualified to run for any DeKalb County elected office  
254 during the 45 days preceding the election for such office.

255 (B) The Board of Ethics shall file with the Chief Executive and the Commission on the  
256 first Tuesday of each February a written report describing the activities of the ethics  
257 administrator in carrying out the goals of his or her office and the code of ethics and  
258 reporting on the ethical health of DeKalb County."

## 259 SECTION 7.

260 Said Act is further amended by revising paragraph (1) of subsection (k) of Section 22A as  
261 follows:

262 "(1) Any intentional violation of this section, furnishing of false or misleading  
263 information to the Board of Ethics, failure to follow an opinion rendered by the Board of  
264 Ethics, or failure to comply with a subpoena issued by the Board of Ethics pursuant to  
265 this section shall subject the violator to any one or more of the following:

266 (A) Administrative sanction of not more than \$1,000.00 assessed by the Board of  
267 Ethics;

268 (B) Public reprimand by the Board of Ethics; and

269 (C) Prosecution by the DeKalb County solicitor in magistrate court and, upon  
270 conviction, a fine of up to \$1,000.00 per violation and up to six months' imprisonment,  
271 whether the official or employee is elected or appointed, paid, or unpaid. Nothing in  
272 this section shall be interpreted to conflict with state law. An action for violation of this  
273 section or the furnishing of false or misleading information or the failure to comply  
274 with a subpoena issued by the Board of Ethics must be brought within two years after  
275 the violation is discovered."

276

**SECTION 8.**

277 The election superintendent of DeKalb County shall call and conduct an election as provided  
278 in this section for the purpose of submitting this Act to the electors of DeKalb County for  
279 approval or rejection. The election superintendent shall conduct that election on the Tuesday  
280 next following the first Monday in November, 2019, and shall issue the call and conduct that  
281 election as provided by general law. The election superintendent shall cause the date and  
282 purpose of the election to be published once a week for two weeks immediately preceding  
283 the date thereof in the official organ of DeKalb County. The ballot shall have written or  
284 printed thereon the words:

285 "  YES Shall the Act be approved which revises the Board of Ethics for DeKalb  
286  NO County?"

287 All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring  
288 to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on  
289 such question are for approval of the Act, Sections 1 through 5 of this Act shall become of  
290 full force and effect immediately. If the Act is not so approved or if the election is not  
291 conducted as provided in this section, Sections 1 through 5 of this Act shall not become  
292 effective, and this Act shall be automatically repealed on the first day of January immediately  
293 following that election date. The expense of such election shall be borne by DeKalb County.  
294 It shall be the election superintendent's duty to certify the result thereof to the Secretary of  
295 State.

296

**SECTION 9.**

297 Except as otherwise provided in Section 8 of this Act, this Act shall become effective upon  
298 its approval by the Governor or upon its becoming law without such approval.

299

**SECTION 10.**

300 All laws and parts of laws in conflict with this Act are repealed.